

HEARING ON RATES RESUMED.

SANTA FE'S COUNSEL BEFORE THE SENATE COMMITTEE.

All Right, He Argued, to Have Rates Within a Certain Range, but to Fix One Tariff Absolutely Was Unjust—The Property of Railroads in Danger.

WASHINGTON, April 18.—The final hearings of the Senate Committee on Interstate Commerce on the railroad rate question were begun today with Victor Morawetz, chairman of the executive committee and general counsel of the Atchafalpa, Topeka and Santa Fe, as the witness. In addition to Senators Elihu, Keam, Cullom, Dilliver, Clapp, Foraker, Carmack and Newlands, a number of railroad attorneys and others were in attendance. Mr. Morawetz occupied all the time today and will be heard again tomorrow.

Mr. Morawetz devoted himself almost exclusively to a discussion of the legal and constitutional questions involved. He pointed out that the tonnage of last year was 171,000,000, or double what it was in 1894. At that rate, ten years from now it would be 300,000,000 tons, requiring vast outlays for tracks, terminals and equipment. Regulating the rates would likely affect the borrowing capacity of the roads and how would they obtain the capital necessary to meet the demands of this rapidly increasing commerce?

Mr. Morawetz said that before the hearings of the committee were closed it would be shown that railway rates in the United States were not excessive, but on the contrary were very low, and that the Interstate Commerce Commission had repeatedly acknowledged this. It would be shown that railway rates in this country were not more than a half or a third as high as those in other countries, although the cost of material and labor required in the operations of the railways is very much higher in the United States than in other countries.

In deciding that railway rates had declined almost continuously in the last twenty years, he added that any one familiar with actual conditions could have no doubt that they were likely to decline still further. He said there was a wide range between a rate that was unreasonably high, and therefore illegal, as against the shipper, and a rate that was so low as to be confiscatory as against the carrier.

He maintained that it was rarely if ever true that there was only one just and reasonable rate for the transportation of a given article between two points. In nearly every instance there was a wide range within which any rate would be just and reasonable, and it was wholly a question of business policy at what point the rate shall be fixed within that range.

Mr. Morawetz quoted decisions of the Supreme Court of the United States to show that to fix the rates to be charged by a carrier was a legislative act and not a judicial act. Congress, he said, probably could delegate to a commission power to fix, subject to review by the courts, the maximum rate that would not be unreasonably high and excessive as against the shippers, but it had never been decided that Congress could delegate to a commission the power prescribing future railway rates, because Congress had never passed any law purporting to do this.

That Congress cannot confer judicial powers upon the Interstate Commerce Commission was contended by Mr. Morawetz. No act, he said, could be drawn giving to a commission, constituted like the Interstate Commerce Commission, the power to adjudicate the rights of parties. No decision of the commission in a controversy between parties could have binding effect.

Congress, he held, cannot vest in the courts power to fix future rates or to consider or pass upon the wisdom or policy of the commission in prescribing a particular rate which was neither confiscatory nor unreasonably high. Mr. Morawetz cited decisions to confirm his contention that Congress could not require the courts, directly or indirectly, to perform an administrative or quasi-legislative character.

"If Congress," he said, "cannot give to the courts original power to prescribe which rates the railway carriers shall charge, Congress cannot require the courts to reconsider the whole case as it was considered by the commission, and to pass upon the wisdom and policy of the action of the commission in fixing a rate."

To grant to the Interstate Commerce Commission discretionary power to fix railway rates between points would vest in the commission, Mr. Morawetz asserted, practically automatic power over the policy of the railways of the United States and automatic powers to make or unmake the property of different sections of the country as far as transportation is concerned. In the practical control of the commission property of the value of about \$15,000,000,000. It would create a new department of government more absolute than any existing in any other country in the world.

Mr. Morawetz said that if the real object of the proposed bill was to prevent the railway companies from imposing excessive rates and to put a stop to unjust discrimination of every kind, he believed that a bill could be drafted to prevent such about the desired result and that would be welcomed by the railway companies as well as by the public. He made a number of suggestions for amendments to take into consideration in preparing a bill which attracted much attention and brought forth a great many questions from the committee.

The idea of Mr. Morawetz was that the powers of the commission were properly placed and prosecuting powers and not those of a tribunal. He thought it would direct its energies toward the prosecution of violations of the law, but this was only done in sporadic cases.

He recommended, therefore, that the commission, when it thought that the law was violated, should immediately institute proceedings in the courts.

"I think that to contemplate a suit against the Atchafalpa, Topeka and Santa Fe," he suggested, "Senator Dilliver."

"Well," he quickly responded, "Mr. Morawetz, if the Atchafalpa violated the law it ought to be prosecuted."

Mr. Morawetz took up the subject of creating a special court and said that the legal system of the country was already very complicated and Congress should hesitate to create new courts. He did not think the existing courts should be deprived of their right to try such cases. In order to obtain evidence to prosecute the giving of rebates he suggested the commission should have the right to examine by expert accountants the books and vouchers of the railroads and the shippers. He advocated bringing the private car lines and private freight lines and the water lines under the jurisdiction of the Interstate Commerce law.

PENSION REVIEWERS RESIGN.

Were Forced to Quit for Passing Applications Illegally.

WASHINGTON, April 18.—Pension Commissioner Vespasian Warner announced today that the members of the Board of Review who passed applications of non-pensionable members of the Maine Pennsylvania regiment had been guilty of unpardonable negligence and that they would have to go. This evening he secured the resignations of all ten members. The resignations have not been acted upon, but will be referred at once to Secretary Hitchcock.

Commissioner Warner said emphatically that no politician should be strong enough to save the men and intimidate that public influence would avail nothing toward procuring their reinstatement. It is understood to be probable, however, that most of the men will be reinstated, their resignations being required as a method of disciplining them and it is also reported that

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Secretary Hitchcock may not accept resignations, but may return them on the ground that the offense of the reviewers was comparatively slight and that they had been sufficiently punished through the shaking up and publicity they have been given.

Whether other officials in the department are to lose their heads as a result of the action of the Board of Review on the non-pensionable cases and the making of the famous Order 78 retroactive will not be discussed by Commissioner Warner at this time. It has been reported that First Deputy Commissioner James L. Davenport and Chief Clerk Bayley were under fire. Commissioner Warner said that one of the members of the Board of Review, in seeking to extenuate his offense, had said that he had acted under instructions from a man higher up, but when pressed to name the man his memory had suddenly failed him. As to violations of Order 78, the Commissioner said that that matter would be taken up later. He intimated that pensioners who were benefited through the retroactive application of that order would have deducted from their future allowances an amount equivalent to what they received through the violation of the order.

Movements of Naval Vessels.

WASHINGTON, April 18.—The cruiser Yankee and the gunboat Cassin have arrived at Salcedo and the cruiser Marblehead at San Jose de Guatemala. The cruiser Newport has sailed from Norfolk for Monte Cristi; the gunboat Petrel, the destroyer Paul Jones and the collier Saturn from San Diego for Magdalena Bay and the destroyer Truxtun from Key West for Monte Cristi.

Army and Navy Orders.

WASHINGTON, April 18.—These army orders were issued today:

Capt. O. W. Bell, Seventh Cavalry, to Quartermaster's Department.

Lieutenant Colonel F. C. Eleventh Cavalry, to Fort Des Moines.

First Lieut. Emory S. West, Seventh Cavalry, to Signal Corps.

Lieutenant Colonel F. C. Eleventh Cavalry, to Fort Des Moines.

These naval orders were issued:

Lieutenant Commander R. S. Griffin, to Bureau of Steam Engineering.

Capt. J. H. Hildreth, placed on the retired list with rank of Rear Admiral.

Lieutenant Commander E. W. Fierle, to Naval Academy.

Lieutenant J. R. Frazier, from Naval Training Station, San Francisco, to naval station, Tutuila, Samoa.

Chaplain R. R. Patrick, to Naval Training Station, San Francisco.

MENINGITIS STRICKEN HOUSE.

Five Children of Unlucky 13 Little West 12th St. Have Died and 3 Are Very Ill.

At 13 Little West Twelfth street, which was a tenement away back when New York was young, cerebrospinal meningitis has settled down as if to stay. Within three weeks five children have died there of the disease and three are now stricken with it.

Those that now trudge up and down the narrow, crazy little stairways are a pale, frightened lot, daily expecting to be themselves stricken just as were the Darder and the Frawley children.

A week ago, according to Mrs. David Darder, her two boys, William, 7 years old, and Raymond, 2, were taken ill and they died in a couple of days. David, 11 years old, was sick three days ago and he died at the New York Hospital on Monday. Frank, the oldest of the Darders boys, aged 17, is now hovering between life and death at the hospital, where it is said that there is still some hope for him.

The Frawleys occupy the rooms above the Darders. Jimmy and Freddy Frawley, aged 3 and 5 respectively, died of the epidemic two weeks ago, and now their mother sits the living day nursing a bundle of their clothes and mourning incoherently. Yesterday afternoon, Mrs. Darder took Mrs. Frawley out for a walk to take the poor woman's mind off her sorrow. In the meanwhile, Darder was making preparations for the funeral of her son David, who is lying dead. Mammie Frawley, aged 7, and Doris, 10, are also in a hospital with meningitis.

On the second floor of the little tenement lives an Italian cobbler with a large family. He attributes the ravages of the disease to the strong odor of decayed food which all about. Little West Twelfth street is in the market district near the North River, to guard against the ailment, the Italian keeps his children in two rooms without ventilation.

The explanation of the outbreak of the disease in the house, according to the Italian, is that Jimmy and Freddy Frawley went to sleep in the damp unwholesome cellar of the house. They showed symptoms of the disease the day after.

Panama Railroad Buys Rails.

A contract for 3,500 tons of steel rails for the Panama Railroad was let yesterday and approved by the executive committee of the board of directors, which held a protracted meeting. Provision was made by the committee for an increase of dockage facilities at Colon. The subject of improving the steamship service was also discussed. Although the railroad is the property of the Government, all business carried on for the canal will be charged to the Government and the road will retain its corporate existence.

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ACTS ON STOCK TAX TO-DAY.

HIGGINS DOESN'T LIKE BILL, BUT IS EXPECTED TO SIGN IT.

The Mortgage Tax Measure Recalled So That the Governor Will Have to Suggest Amendments—Administrative Features Need Smoothing Out, He Says.

ALBANY, April 18.—There is considerable speculation here to-night as to the probable action to be taken by Gov. Higgins on the Stock Transfer Tax bill to-morrow. The Governor announced to-night that he expected to finish consideration of the bill and to act upon it before midnight to-morrow. He said that it would be a fair inference from what he said that he would not permit the bill to become a law without his signature, as might happen if he neither signed nor vetoed the measure to-morrow.

In answer to the question as to whether it was not fair to assume that as he favored additional legislation to increase the State revenues, he would make the Stock Transfer Tax bill a law, the Governor said that such could not be assumed.

"There is a mistaken impression about the bill," said the Governor, "for it did not emanate from me, and it was not forced through the Legislature by me. There are features about the bill that do not please me, and there are others that do. I shall give my opinion of the bill, if I sign it, that will indicate my ideas about it, and if I should veto it I will certainly state my reasons."

The Republican legislative leaders do not doubt that the Governor will sign the bill. The Governor repeated his assurance that the Mortgage Tax bill was recalled by the Legislature to give him ten days more time for its consideration. He said that he was not altogether satisfied with the bill, but that the administrative features could be smoothed out to advantage.

The Governor declared he did not believe that anything more could be done with the bill. He said that he had been doing, although the bill was once more in the possession of the Legislature to-day, adopted the resolution recalling the Mortgage Tax bill from the Governor. Then the Senate adopted another resolution sending the bill back to the Governor without amendment, but the Assembly had adjourned before this resolution reached that body and it will be adopted by the House to-morrow.

As soon as the Governor's legal advisers determine just what changes in the machinery of the proposed law should be made an amended Mortgage Tax bill will be introduced and rushed through under an emergency message. This amended bill also will extend from the tax mortgages of building and loan associations.

If the bill reaches the Governor before the second ten days given him to consider the original bill expires the Governor will sign the amended bill, otherwise he will sign the original bill.

Extradited for Lockwood Murder.

ALBANY, April 18.—Gov. Higgins to-day granted a requisition of the Governor of Connecticut for the extradition of Joseph Conesky and Edward Leonard, who are wanted in Waterbury, Conn., for the murder of Thomas C. Lockwood on Feb. 27 last. Conesky and Leonard are held in Brooklyn. They are former employees of the street car lines in that city, but lived at one time in Waterbury.

Bill Against Docking Horses Repealed.

ALBANY, April 18.—By a vote of 48 yeas to 31 nays the Assembly to-day defeated Assemblyman Sheldon's bill preventing the docking of horses' tails in this State and compelling all horses at present in the State that are docked to be registered. Assemblyman Wadsworth, the son-in-law of Secretary of State John Hay, opposed the bill.

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TO SAVE DETECTIVE SERGEANTS.

The Nine's Police Bill Redrafted and Then Reported Favorably.

ALBANY, April 18.—The Committee of Nine's police bill has been redrafted to a great extent by Assemblyman Prentice, who introduced the bill in the lower house. As amended by him the bill has been reported favorably by the Assembly Cities Committee.

The most important change is in relation to the detective sergeants. That section has been redrafted so as to overcome the objection of certain Republican members. As William Halpin was about the Cities Committee room this afternoon and conferred with Mr. Prentice, it no doubt meets with his approval.

While the actual rank of detective sergeant is abolished, the detective sergeants who were appointed prior to the administration of the late Commissioner Murphy in 1901 under the Odell Police Commissioner law are retained, with the rank and pay of detective sergeants. However, the Commissioner has the right to make details to the Bureau of Criminal Investigation, as the Detective Bureau is to be called, and these old sergeants may not be in the bureau, but doing other duty on the force.

It is said by the Republican members that a Tammany Commissioner might single out these old sergeants for reduction. According to Acting Inspector Steve O'Brien, when he was before the Assembly Cities Committee three weeks ago the abuse in the Detective Bureau comes from the men who were appointed under the Odell law. It was asserted on behalf of the detective sergeants that the provision reducing them to the ranks was unconstitutional, in that it reduced their pay. The sergeants had been contributing to the pension fund with the expectation that when retired they would draw a pension in comparison with their pay and position in active service.

At the hearing to-day former Senator Marshall attacked the statement made by Inspector O'Brien that detective sergeants were in league with thieves and accepted bribes.

Against Department Store Savings Banks.

ALBANY, April 18.—The Assembly to-day passed Assemblyman A. E. Smith's bill which is designed to prevent department stores from advertising that they do so on savings bank business. They can conduct savings departments, but cannot make use of the words "savings bank" unless authorized to do so by the State Superintendent of Banks.

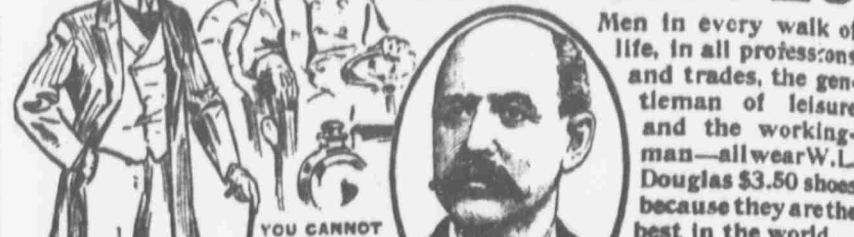
Gen. Lee Talks to Legislature.

ALBANY, April 18.—Gen. Fitzhugh Lee addressed a joint session of the State Legislature this morning in the interest of the Jamestown exposition, to be held at Jamestown, Va., in 1907. Gen. Lee was afterward entertained at luncheon by Gov. Higgins.

Death From Hydrophobia.

ORANGE, N. J., April 18.—Louis Ellwings, 23 years old and but seven months married, died this morning in the Orange Memorial Hospital of hydrophobia, the result of a dog bite received five months ago and which he had forgotten.

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SANITY OF JOHN W. LOVE.

Wire says He is Unable to Care for Estate of \$700,000.

The sanity of John W. Love is to be inquired into by a commission appointed yesterday by Supreme Court Justice Grier.

Mr. Love has been in a Mamaroneck asylum for some time and his wife, Julia M. Love, who lives at 28 West Seventy-

second street, alleges that he is unable to care for either his person or his property. He is said to be worth more than \$700,000.

Several doctors have made affidavits to the effect that Mr. Love is suffering from dementia and is mentally incompetent.

For Railroad Rate Commission.

MADISON, Wis., April 18.—Without debate, by a vote of 75 to 12, the Wisconsin Assembly to-day passed the administration Railroad Rate Commission bill.

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